

OVERVIEW

This policy outlines the process and requirements for obtaining and using fingerprint-based criminal histories for child welfare programs purposes.

LEGAL AUTHORITY

Federal

Social Security Act, 42 USC 671(a)(20)

Requirement to complete background checks before approval of any foster or adoptive placement and to check national crime information databases and state child abuse registries.

Criminal Justice Information Services (CJIS) Security Policy

Security requirements are outlined in [The Criminal Justice Information Services Security Policy](#).

The transmission of Criminal History Record Information (CHRI) from Michigan Department of Health & Human Services (MDHHS) to Child Placing Agencies (CPA) for the purposes of foster home licensing and adoption is governed by the Adam Walsh Child Protection and Safety Act.

State

Child Care Organizations Act, 1973 PA 116, as amended, MCL 722.115h

Application for or to renew a license to operate foster family home or foster family group home; criminal history check required; procedures.

Child Care Organizations Act, 1973 PA 116, as amended, MCL 722.115k

Storage and maintenance of fingerprints; automated fingerprint identification system database.

Guardianship Assistance Act MCL 722.874

The approval process must include criminal record checks and child abuse and neglect central registry checks on the guardian and all adults living in the guardian's home as well as fingerprint-based criminal record checks on the guardian.

DEFINITIONS

Authorized Personnel - individuals who are responsible for the licensing or approval of foster and adoptive parents who are approved to see Criminal History Record Information (CHRI).

Child Caring Institution (CCI) - a child care facility that is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24-hour basis, in buildings maintained by the child caring institution for that purpose, and operates throughout the year. An educational program may be provided, but the educational program must not be the primary purpose of the facility. Child caring institution includes a maternity home for the care of unmarried mothers who are minors and an agency group home that is described as a small child caring institution, owned, leased, or rented by a licensed agency providing care for more than 4 but less than 13 minor children. Child caring institution also includes institutions for developmentally disabled or emotionally disturbed minor children. Child caring institution does not include a hospital, nursing home, or home for the aged licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, a boarding school licensed under section 1335 of the revised school code, 1976 PA 451, MCL 380.1335, a hospital or facility operated by the state or licensed under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, or an adult foster care family home or an adult foster care small group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, in which a child has been placed under section 5(6). (Act No. 116 of the Public Acts of 1973 as Amended)

Child Placing Agency (CPA) - a governmental organization or an agency organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, for the purpose of receiving children for placement in private family homes for foster care or for adoption. The function of a CPA may include investigating applicants for adoption and investigating and certifying foster family homes and foster family group homes as provided in this act. The function of a CPA may also include supervising children who are at least 16 but less than 21 years of age and who are living in unlicensed residences as provided in section 5(4). (Act No. 116 of the Public Acts of 1973 as Amended)

CJIS Systems Officer (CSO) - the individual located within the CJIS Systems Agency responsible for the administration of the CJIS network on behalf of the CJIS Systems Agency.

Criminal History Check - internet criminal history access tool (ICHAT) or equivalent check on that person from the state or province of resident.

Criminal Records Check - fingerprint-based check from the Federal Bureau of Investigation (FBI).

CHRI Media - any document, electronic file or database that contains Criminal History Record Information (CHRI) obtained through a State of Michigan and FBI fingerprint-based check.

Chief Administrator - individual in a CPA or CCI that makes daily decisions for the licensed facility or agency.

Licensee Designee - for an incorporated CPA or CCI the individual who is the representative of the corporation.

Local Agency Security Officer (LASO) - the primary Information Security contact between a local law enforcement agency and the Criminal Justice Information Services (CJIS) Systems Agency (CSA) under which this agency interfaces with the FBI CJIS Division. The LASO actively represents his/her agency in all matters pertaining to information security, disseminates information security alerts and other material to his/her constituents, maintains information security documentation (including system configuration data), assists with information security audits of hardware and procedures, and keeps the department informed as to any information security needs and problems.

Local Clearance - a criminal history completed by a specific jurisdiction only; for example, a court or local police station.

Secondary Dissemination - the transmission of CHRI from the Michigan Department of Health & Human Services (MDHHS) to Child Placing Agencies (CPA).

REQUIREMENTS FOR APPLICANT FINGERPRINTING

Fingerprints are required for all individuals applying to become licensed foster home parents or adoptive parents in the state of Michigan and chief administrators and licensee designees of Child

Placing Agencies (CPA) and Child Caring Institutions (CCI). The Division of Child Welfare Licensing (DCWL) processes clearances using the CWL-1326, Licensing Record Clearance Request Foster Home/Adoptive Home form for licensed foster home applicants, domestic adoption applicants, international adoption applicants and using the DCWL-1326-CCI, Licensing Record Clearance Request Child Caring Institution or Child Placing Agency for chief administrators and licensee designees of CPAs and CCIs and household members in foster and/or adoptive homes.

Note: Applicants and household members for international adoptions use the CWL-1326, Licensing Record Clearance Request Foster Home/Adoptive Home form but are not required to be fingerprinted through this process (international adoption applicants are fingerprinted through the United States' Department of Homeland Security).

The Federal Bureau of Investigation (FBI) policy; Criminal Justice Information Services (CJIS) Security Policy, mandates procedures for agencies that receive the results of fingerprint-based criminal history. The Michigan State Police (MSP) regulates the compliance with the CJIS Security Policy. The information contained in the results of the fingerprint-based criminal history is considered Criminal History Record Information (CHRI) in the CJIS Security Policy. CHRI is defined as "any notations or other written or electronic evidence of an arrest, detention, complaint, indictment, information or other formal criminal charge relating to an identifiable person that includes identifying information regarding the individual as well as the disposition of any charges." The CHRI must be held to the requirements in the CJIS Security Policy whether the results indicate a criminal history or no criminal history for the individual. The information contained in CHRI must be held to same level security whether it is the original document or if the information is transferred to another document.

Example: If the CHRI contained in the fingerprint-based criminal history is documented in the CWL-3130, Initial Foster/Adoption Home Evaluation, or the DHS-612, Adoptive Family Assessment Addendum, these documents must be held to security requirements in the CJIS Security Policy.

ITEMS THAT CONTAIN CHRI

This policy covers only CHRI received by MDHHS for child welfare (CW) purposes. The CHRI covered in this policy must be referred to as CW-CHRI.

CW-CHRI is received from the FBI through the MSP. CW-CHRI includes notation of a criminal history or no criminal history on the CWL-1326, Licensing Record Clearance Request Foster Home/Adoptive Home, or DCWL-1326-CCI, Licensing Record Clearance Request Child Caring Institution or Child Placing Agency, the email from the MSP with documentation of presence or no presence of a criminal history and the physical copy of the criminal history. When this information is transferred to documents such as the CWL-3130, Initial Foster/Adoption Home Evaluation, DHS-612, Adoptive Family Assessment Addendum, or into a database such as MiSACWIS or the Bureau Information Tracking System (BITS) the security requirements are the same as with the physical document. If criminal history information listed in the fingerprint based criminal history is corroborated with information that is considered public then the criminal history information is considered public and can be shared.

Example: If a crime listed in the fingerprint-based criminal history is later located through a local clearance then the criminal history information can be shared according to the local security requirements.

Note: CW-CHRI is NOT to be stored in the child's adoption file, the foster care file or the CPS file. CW-CHRI is not typically needed in Juvenile Justice cases and should not be stored in a child's juvenile justice file.

APPLICANT FINGERPRINT PROCESS

The applicant fingerprinting process must be completed as indicated below:

1. All applicant(s) must first complete, sign and date an application either a BCAL-3889, Children's Foster Home License Application, OCAL-3502, Child Placing Agency Application, or a BCAL-1074, Child Caring Institution Application.

Note: The DHS-3153-a, Adoption Application, is **not** required to be completed prior to fingerprinting.

2. The applicant(s) then completes, signs and dates the Livescan Fingerprint Background Check Request RI-030. This document is required by the Michigan State Police (MSP) to verify that authorization has been given for fingerprinting.
3. The applicant(s) must then complete a CWL-1326, Licensing Record Clearance Request Foster Home/Adoptive Home form or a DCWL-1326-CCI, Licensing Record Clearance Request for Child Caring Institution or Child Placing Agency. A CWL-1326, Licensing Record Clearance Request Foster Home/Adoptive Home or a DCWL-1326-CCI, Licensing Record Clearance Request for Child Caring Institution or Child Placing Agency can only be given to an applicant when the application and Livescan Fingerprint Background Check Request RI-030 has been completed, signed and dated.

Note: Applicant(s) must use the appropriate 1326 form indicating the reason for fingerprinting (adoption, foster care or chief administrators and licensee designees) per FBI policy requirements below:

- Adoption and foster care applicants must use the CWL-1326, Licensing Record Clearance Request Foster Home/Adoptive Home.
- Chief administrators and licensee designees for CPAs or CCIs must use the DCWL-1326-CCI, Licensing Record Clearance Request for Child Caring Institution or Child Placing Agency.

The application, the CWL-1326, Licensing Record Clearance Request Foster Home/Adoptive Home or DCWL-1326-CCI, Licensing Record Clearance Request for Child Caring Institution or Child Placing Agency and the RI-030 must be dated in the sequence above with the application signed first or all forms signed on the same day. **Fingerprint-based criminal clearances cannot be processed if the forms are signed out of order or after the fingerprints are completed.**

4. Following the completion of an application, the CWL-1326, Licensing Record Clearance Request Foster Home/Adoptive Home or the DCWL-1326-CCI, Licensing Record Clearance Request for Child Caring Institution or Child Placing Agency

and the RI-030, an appointment for fingerprinting is scheduled by the CPA worker or the applicant through the fingerprint vendor contracted with the state of Michigan. The applicant will receive a registration number.

When scheduling a fingerprint appointment the correct reason code must be used. The correct code must be indicated on the CWL-1326, Licensing Record Clearance Request Foster Home/Adoptive Home or the DCWL-1326-CCI, Licensing Record Clearance Request for Child Caring Institution or Child Placing Agency by using the correct check box.

Reason codes:

- **AWF** - to be used for foster home licensing with agency ID: 68465P
 - **AWA** - to be used for adoption through foster care with agency ID: 68464J
 - **AWP** - to be used for private domestic adoption with agency ID: 68466H
 - **DCL** - to be used for chief administrators and licensee designees of CPAs or CCIs with agency ID: 88695H
5. The applicant must take his/her registration number, the CWL-1326, Licensing Record Clearance Request Foster Home/Adoptive Home, or DCWL-1326-CCI, Licensing Record Clearance Request for Child Caring Institution or Child Placing Agency, and the RI-030 to the appointment; a receipt which includes a TCN# (unique identifier for the fingerprint) will be provided to the applicant by the vendor. The TCN# is written on the CWL-1326, Licensing Record Clearance Request Foster Home/Adoptive Home or DCWL-1326-CCI, Licensing Record Clearance Request for Child Caring Institution or Child Placing Agency, and the RI-030 by the vendor.
 6. All required documents are sent to the Division of Child Welfare (DCWL) Licensing by the CPA or DCWL consultant for processing.
 - For foster home licensing applicants and household members the worker must send the original 3889 - Children's Foster Home License Application, Livescans Fingerprint Background Check Request RI-030 for

applicants and CWL-1326, Licensing Record Clearance Request Foster Home/Adoptive Home by mail for DCWL for enrollment. DCWL address is 235 S. Grand Ave Suite 407 PO Box 30650 Lansing, MI 48909

- For adoption applicants the worker can scan and email the CWL-1326 and RI-030 to adoption-DCWL@michigan.gov.
- For CPA or CCI license applicants the DCWL consultant must send the appropriate application, the DCWL-1326-CCI, Licensing Record Clearance Request Child Caring Institution/Child Placing Agency and the RI-030 to DCWL central office.

If all the documents and dates are in order, the fingerprint-based criminal history results will be mailed back to the agency listed on the CWL-1326, Licensing Record Clearance Request Foster Home/Adoptive Home.

**MISACWIS:
Secure Criminal
History Hyperlink**

The CHRI results must be scanned and uploaded to the Secure Criminal History hyperlink in MiSACWIS.

**APPLICANT
CHALLENGE/
CORRECTION
PROCESS**

If an applicant believes his/her fingerprint based criminal history is incorrect or inaccurate the applicant should request a copy of his/her CW-CHRI information from the CPA or MDHHS county office.

The applicant must review and sign a Request to Challenge/Correction form prior to a worker providing a copy of the CW-CHRI. The applicant must also be provided with a copy of this form. This document informs the applicant of his/her right to challenge the information in CW-CHRI if they believe the information is inaccurate.

The applicant must directly contact the agency which provided the criminal history information in question. For assistance in obtaining criminal history information, applicants should contact:

- For out of state records:

FBI, Criminal Justice Information Services Division
ATTN: SCU, Mod. D2,
1000 Custer Hollow Road
Clarksburg, WV 26306

- For state of Michigan records:

- Call- Michigan State Police at 517-241-0606
- Email- MSP-CRD-APPLEHELP@michigan.gov

CHRI ACCESS TO AUTHORIZED INDIVIDUALS

General

All personnel requiring access to CW-CHRI must first be deemed an *authorized personnel*. Authorized personnel are individuals that are responsible for the licensing or approval of foster and adoptive parents, clerical, and managerial staff who support these functions and auditors/other vendors who have been approved by MSP to view CW-CHRI. Prior to access of CW-CHRI, authorized personnel must receive/complete the following items and have them filed in his/her personnel record:

- ICHAT results.
- Successful completion of Security and Awareness training.

Note: Authorized personnel access is denied if the individual has ever had a felony of any kind, no matter when it occurred.

LASO

The DCWL Local Agency Security Officer (LASO) oversees the statewide fingerprinting process for child welfare and insures compliance with MSP and FBI policy regarding fingerprints. The MDHHS Office of Human Resources (OHR) that serves MDHHS and the LASO will review any non-felony criminal history to determine if access to CW-CHRI is appropriate. Persons believed to be a fugitive of justice, or having an arrest history without conviction will be reviewed to determine if access to CW-CHRI is appropriate. The LASO may ask for review by the CJIS Systems Officer (CSO) within MSP in extenuating circumstances where the severity of the offense and the time that has passed would support a possible variance.

Access to view CW-CHRI will be granted by the LASO so long as by providing access will not be detrimental to the agency or the individual for which the record pertains.

Subsequent Arrest/Conviction

Persons already having access to CW-CHRI and who are subsequently arrested and/or convicted of a crime will:

- Have his/her access to CW-CHRI suspended until the outcome of an arrest/allegation/charges are determined and reviewed by the LASO in order to determine if continued access is appropriate.
- Have his/her access to CW-CHRI suspended indefinitely or duties reassigned if a conviction results in a felony of any kind.
- Have his/her access denied by the CJIS Systems Officer (CSO) if she/he determines that access to CHRI by the person would not be in the public's best interest.

Screening Personnel

All personnel with access to CW-CHRI must be cleared through a criminal history check prior to receiving this access. CW-CHRI is contained in the documents received from the FBI and MSP which is attached to the CWL-1326, Licensing Record Clearance Request Foster Home/Adoptive Home form and is also included in the 3130 - Initial Foster/Adoption Home Evaluation and the 612 - Adoptive Family Assessment Addendum.

The MDHHS Office of Human Resources (OHR) and non-MDHHS CPAs human resource personnel must conduct a criminal history check of personnel who are newly appointed or at time of appointment or job change to a position with access to CW-CHRI. DCWL will monitor the screening of personnel with access to CW-CHRI.

OHR will use ICHAT to screen personnel. Personnel with a felony conviction are prohibited from viewing CW-CHRI. Any criminal history found for personnel seeking access to CW-CHRI must be reviewed by MSP or the DCWL LASO to determine if access is appropriate.

Contractors, vendors and external auditors will be held to the same screening requirements as child welfare staff who have access to CW-CHRI.

Personnel Training

All personnel, contractors, vendors and external auditors who have access to CW-CHRI are required to complete security awareness training (SAT). Training will be available on the Learning Management System (LMS) for MDHHS personnel and contractors with access to this system.

SAT is required to be taken within six months of being in a position with CW-CHRI access and every two years thereafter. CPAs are responsible for ensuring that all personnel with CHRI access completes the SAT. DCWL consultants will monitor completion of SAT in all CPAs as part of the annual licensing audit.

Internal & External Auditors

Auditors within MDHHS will be held to the same standards of security, training and confidentiality as all other personnel groups that have access to fingerprint-based criminal history. Auditors must provide a statutory basis for their specific requirement and need to view CHRI. External auditors must document how staff that view CW-CHRI receive a criminal history check and complete the SAT course. External auditors must also be reviewed and approved by DCWL and MSP for access to CW-CHRI.

Employment Termination/ Change

When a MDHHS or CPA employee is terminated from employment his/her access to CW-CHRI will be immediately terminated, using the DHS-50, Employee Departure Checklist.

CPAs are responsible for ensuring that all staff who have access to CW-CHRI have a cleared criminal history check when moving to a position with CW-CHRI access.

**Sanctions for
Personnel Non-
Compliance**

Persons found non-compliant with state or federal law, current FBI CJIS Security Policy, rules or regulations, including MDHHS policy regarding CHRI, may be formally disciplined. Discipline may include but is not limited to, counseling, reassignment of duties, dismissal, and/or prosecution. Discipline will be based on the severity of the infraction and at the discretion of the MDHHS Office of Human Resources (OHR) serving MDHHS and/or the CSO of the MSP.

**HANDLING CHRI
MEDIA**

MiSACWIS meets the computer security and encryption requirements defined in the CJIS Security Policy. Data in MiSACWIS and FileNet is encrypted from storage until it is delivered to the user. Data at rest in the database is encrypted to AES256/FIPS-140-2 Complaint standards on the SANS. When data is in flight between the database and application server it is encrypted to AES256 standard. When the data is delivered to the user's browser from the application server, it is delivered via HTTPS.

All MDHHS computers and systems are held to the security standards established by the Department of Technology, Management and Budget (DTMB). All MDHHS computers are held to the encryption standards in the DTMB Electronic Data and Encryption Technical Standard 1340.00.07. All computers and digital media are disposed of according to DTMB's Secure Disposal of Installed and Removable Digital Media Standard (former Ad Guide 1350.90) Technical Standard 1340.00.13. Both of the above technical standards can be found at:

http://inside.michigan.gov/dtmb/wr/psp/Pages/2_DTMB_IT_PSP.aspx

All licensed CPAs will be required to meet all computer encryption and destruction standards defined in CJIS.

**Controlled Area
Requirement**

Electronic and physical CW-CHRI media must be securely stored within physically secure locations or controlled areas. Access to such media is restricted to authorized personnel only and secured

at all times when not in use or under the supervision of an authorized personnel.

Controlled area is defined as a physically secure location where CHRI is stored and processed. If a secure location cannot be established then access to the area where CHRI is stored must be limited to authorized personnel. CHRI must be locked and secured when unattended and computer screens will be positioned in such a way to prevent unauthorized access or view.

Physical CW-CHRI Media

Physical CW-CHRI media must be stored in a separate file designated for CW-CHRI.

Physical media is defined as any physical/paper copies of documents that contain CHRI including but not limited to the physical results of the fingerprint-based criminal history, description and assessment of the fingerprint-based criminal history in the BCAL-3130 Initial Foster Home/Adoption Evaluation or the DHS-612, Adoptive Family Assessment Addendum.

Physical CW-CHRI media must be maintained in a secure location such as within a lockable filing cabinet, closet, office, safe or vault.

Note: CW-CHRI should only be in the adoptive families file and the foster home licensing file. It is NOT required to be stored in any other files.

Physical Media in Transit

Physical CHRI media must be transported from the LASO within DCWL at MDHHS central office to individuals determined to be *authorized personnel* in CPAs.

Transportation (the movement of physical CHRI media) of physical CHRI media from one office to another must occur through State of Michigan ID mail system or through the United States Postal Service in a sealed envelope.

**Electronic CHRI
Media**

Electronic CHRI Media must be secured through encryption as specified in the CJIS Security Policy.

There are no electronic systems approved to store CW-CHRI other than DCWL for tracking purposes.

**Electronic Media in
Transit**

CW-CHRI information is not to be stored in MiSACWIS. Electronic transmission of CHRI media over state of Michigan email is not permitted. The Bureau Information Tracking System (BITS) has been reviewed by DTMB and meets the security and encryption standards required by the FBI CJIS policy.

Non-MDHHS CPAs must ensure that computers, software, and email programs meet the requirements identified in CJIS Security Policy. The transmission of CHRI from MDHHS to CPAs for the purposes of foster home licensing and adoption is governed by the Social Security Act, 42 USC 671(a)(20) commonly referred to as the Adam Walsh Child Protection and Safety Act. The transmission of CHRI from MDHHS to CPAs is called secondary dissemination and occurs through the United States Postal Service in a sealed envelope; see Secondary Dissemination in this item.

**Electronic Media
Sanitization and
Disposal**

All computers and digital media are disposed of according to DTMB's Secure Disposal of Installed and Removable Digital Media Standard (former Ad Guide 1350.90) Technical Standard 1340.00.13.

http://inside.michigan.gov/dtmb/wr/psp/Pages/2_DTMB_IT_PSP.aspx

**Disposal of
Physical Media**

Physical CW-CHRI media will be retained by DCWL central office for 4 years following the date of the fingerprint.

Physical CHRI media retained by MDHHS or a CPA will be destroyed according to the retention schedule of the adoption or

licensing file designated by rules or policy. When physical CHRI is destroyed it must be cross shredded by *authorized personnel*. Destruction of physical CHRI media must be documented in a destruction log maintained by DCWL, OHR, the MDHHS local office or the non-MDHHS CPA with CW-CHRI access.

Secondary Dissemination

Secondary dissemination is the transmission of CW-CHRI from one authorized agency to another. Transactions of secondary dissemination must be documented. The log must include the following:

- The date the record was shared
- Record disseminated
- Requesting agency (whom the response was shared with)
- The specific individual the CHRI is given to
- Method of sharing (U.S. Mail or physical person to person)
- Agency personnel that shared the CHRI

Examples of secondary dissemination include:

- MDHHS sharing fingerprint-based criminal history information with a MDHHS or non-MDHHS CPA for the purpose of foster home licensing or adoption.
- CPA sharing the results with a Michigan court for the purposes of adoption.

CPAs that receive CW-CHRI for the purposes of adoption and foster care are subject to the CJIS Security Policy requirements and will be monitored for compliance during the annual licensing audit.

CPAs are permitted to disseminate CW-CHRI with courts for the approval of adoptions or for foster home licensing, with other CPAs when a foster home license is transferred and when two or more adoptions are completed on the same family within the same year. CW-CHRI completed for foster home licensing may not be disseminated for adoption purposes or vice versa even within the same CPA.

**Event Reporting &
Escalation**

When MDHHS or non-MDHHS CPA staff detect or confirm a breach in the security of the CW-CHRI, staff must immediately report the breach to his/her direct supervisor. The supervisor and management team of the MDHHS office or CPA must immediately secure CW-CHRI. The incident must be reported immediately to DCWL with the LASO being the primary contact. The email address for reporting security concerns to the LASO is: LASO-DCWL@michigan.gov.

DTMB technical procedure How to Handle a Security Breach-
Procedure Number 1340.00.01.02.

http://inside.michigan.gov/dtmb/wr/psp/Pages/2_DTMB_IT_PSP.aspx